

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF WEST VIRGINIA



ADMINISTRATIVE PROCEDURES  
FOR  
ELECTRONIC CASE FILING

Effective Date May 2005  
Procedures Revised August 1, 2006



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## INTRODUCTION

To the extent that these Administrative Procedures conflict with the Court's existing Local Rules, these Administrative Procedures for Electronic Case Filing take precedence. Further, the Court or Clerk may deviate from these Administrative Procedures in specific cases, without prior notice, if deemed appropriate in the exercise of discretion, considering the need for the just, speedy and inexpensive determination of matters pending before the Court. The Court may also amend these Administrative Procedures at any time without prior notice. Updates to these Administrative Procedures will be immediately posted to the Court's web page at [www.wvsc.uscourts.gov](http://www.wvsc.uscourts.gov).

**1. Definitions and Standards.**

- 1.1 CM/ECF** refers to Case Management/Electronic Case Filing. This is the docketing and filing system used by the judiciary and by this Court.
- 1.2 Traditionally Filed Document** means a document or pleading presented to the Court for filing in paper or other non-electronic, tangible format.
- 1.3 Electronic document** is an electronic version of information otherwise filed in paper form.
- 1.3.1** An electronic document has the same legal effect as a paper document.
- 1.3.2** An electronic document is considered timely if received by the Court before midnight, local prevailing time/Eastern Time, on the date set as a deadline, unless the judge specifically requires another time frame. If time of day is of the essence, the assigned judge will order the document filed by a time certain.
- 1.4 Electronic Filing** is the electronic transmission of a PDF (portable document format) by uploading the document directly from the filing user's computer into the electronic file via CM/ECF.
- 1.5 Electronic File** is the official court record maintained electronically on the Court's servers.
- 1.5.1** The Clerk's Office shall not maintain a paper court file in any case commenced after the effective date of these procedures except as otherwise provided in these procedures.

- 1.5.2** The official record shall include, however, any conventional documents or exhibits that cannot be electronically filed in accordance with these procedures.
- 1.5.3** In criminal cases, the Clerk's Office will retain all original indictments and other charging instruments, plea agreements, executed pleas of guilty, and jury verdict forms after they have been scanned and uploaded to ECF. The electronic file, however, shall constitute the official record in the case.
- 1.6 Filing User** is an individual who has a court-issued login and password to file documents electronically.
- 1.7 Portable Document Format or PDF** means a type of document formatting that can be created with almost any word processing program. Scanned documents can also be converted to PDF.
- 1.7.1 PDF text document** is a document created with almost any word processing program (i.e., WordPerfect, Microsoft Word, etc.) that has been converted to PDF without the use of a scanner. The PDF conversion program, in effect, takes a picture of the original document so that the converted document can be opened across a broad range of hardware and software, with layout, format, links and images intact. A PDF text document is the preferred format for filing documents with the Court because a PDF text document is



considerably smaller in size and allows for text searches within that document.

**1.7.2 PDF scanned document** is a document converted into PDF by means of a document scanner. When scanning documents to be subsequently filed electronically, filing parties must configure their scanners for black and white at 200 dpi. The filing party is responsible for the legibility of the scanned image. PDF scanned documents are essentially pictures of the original documents and do not allow for text searches within those documents.

**1.8 Notice of Electronic Filing (NEF)** is an e-mail verification generated by the CM/ECF system of the Court's receipt of the electronic document, as well as the official notice of the filing to all other parties. The Notice includes the text of the docket entry, as well as a link to the filed document(s).

## **2. Scope of Electronic Filing**

Subject to the exceptions set forth herein, effective May 1, 2006, all documents shall be filed electronically no matter when the case, civil or criminal, was originally filed.

## **3. Special Filing Requirements and Exceptions from Mandatory Electronic Filing**

### **3.1 Documents Traditionally Filed**

The following matters or documents shall not be filed electronically, but must be filed in the traditional manner or as otherwise directed:

- A. Parties proceeding *pro se*.
  - i. **Non-prisoner *pro se* filers** will be permitted to file electronically only when permission of the Court has been requested, and the Court has granted such request by Order. If, during the course of the action, the non-prisoner *pro se* filer retains an attorney, the Clerk shall terminate that person's registration upon the attorney's appearance.
  - ii. **Incarcerated *pro se* filers** are not permitted to file electronically. They must file in the traditional manner.
- B. Social Security transcripts. The administrative records in Social Security cases must be filed on CD-ROM, or other method approved by the Clerk in advance, containing the records in PDF.
- C. Pre-indictment grand jury matters that are assigned miscellaneous action numbers by the Clerk, e.g., Notices of Disclosure of Grand Jury materials in criminal investigations; applications for wire taps; pen registers, or trap and trace; beeper applications for mobile tracking devices; applications under 18 U.S.C. § 2703, requiring production of certain records and precluding notice; and applications for ex parte orders to disclose returns and return information; as well as warrants, must be filed in the traditional manner.

- D. State Court records submitted with a respondent's answer to a habeas corpus petition must be filed on CD-ROM, or other method approved by the Clerk in advance, containing the records in PDF.
- E. In accordance with the Local Rules, parties shall not file discovery. However, discovery materials to be used in support of any motion, e.g., a motion to compel or for summary judgment, shall be filed electronically with the Court as an attachment to the motion.
- F. Such other documents as the presiding judge may permit upon prior motion for good cause shown.

### **3.2 Documents Filed on Paper and Scanned**

The following documents shall be filed on paper and may be scanned into CM/ECF by the Clerk's Office.

- A. The charging document in a criminal case, such as the complaint, indictment, and information.
- B. Affidavits for search and arrest warrants and related papers.
- C. Fed. R. Crim. P. 20 and Fed. R. Crim. P. 40 papers received from another court that are not transmitted electronically.
- D. Any pleading or document in a criminal case containing the signature of a defendant, such as a bond, conditions of release, waiver of indictment or plea agreement, etc.
- E. Petitions for violations of supervised release.

**4. *Pro Se* Cases**

Electronic filers in *pro se* cases must file all documents electronically, but must serve a copy of the documents on the non-electronic *pro se* parties by traditional means.

**5. Social Security Cases**

In Social Security cases, internet access to all documents is limited to counsel of record and court staff. The public may also view these files at the public terminal in the Clerk's office. The docket sheet, however, will be available over the internet to non-parties with PACER subscriptions. Absent a showing of good cause, all documents, notices and orders in Social Security reviews filed in the District Court shall be filed and noticed electronically, except as noted below:

- A. The complaint and other documents typically submitted at the time a Social Security case is initiated may be filed at the public counter in the Clerk's Office, by the traditional method, or transmitted by e-mail. A " Complaint for Review of the Decision of the Commissioner of Social Security " is posted to this Court's website at [www.wvsc.uscourts.gov](http://www.wvsc.uscourts.gov).
- B. The certified copy of the administrative record is exempt from the Court's civil case redaction requirements. As stated in Section 3.1.B, the administrative records in Social Security cases must be filed on CD-ROM, or other method approved by the Clerk in advance, containing the records in PDF. However, counsel for the defendant must provide a paper copy of the

Social Security transcript to the United States Magistrate Judge to whom the case is assigned or referred and to counsel for the plaintiff.

- C. All other documents in the case, including Consents to Proceed before the United States Magistrate Judge and briefs, will be filed and served electronically unless the Court otherwise orders.

## **6. Login and Password; Registration**

### **6.1 Login and Password**

Each attorney admitted to practice in the Southern District of West Virginia, including those admitted *pro hac vice*, shall be entitled to one CM/ECF login and password from the District Court upon successful completion of Court-conducted training either in West Virginia or any other U. S. District Court, or upon a showing that s/he has completed an on-line tutorial or other off-site training, or has used CM/ECF in another U. S. District Court for a period of at least six months. The login and password permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers. Users are subject to applicable PACER service fees.

- A. No attorney shall knowingly permit or cause to permit his or her login and password to be used by anyone other than an authorized employee of his or her office.
- B. The attorney shall be responsible for all documents filed with his or her password.

- C. An attorney shall use his or her login and password to file documents in cases in which he or she is counsel of record. Where appropriate, each document should bear the electronic signature or traditional signature of the attorney under whose login and password the document is being filed.
- D. The Court will issue logins and passwords only to attorneys in good standing. To be in good standing, an attorney must meet the requirements within the Local Rules governing admission.

## **6.2 Registration.**

- A. **Attorney Registration Form:** To file electronically, each attorney must complete and sign an Attorney Registration Form, attached to these procedures as Form A. The form is also available on the Court's website at [www.wvsc.uscourts.gov](http://www.wvsc.uscourts.gov).
- B. Attorneys must mail the original Attorney Registration Form to the Clerk, U. S. District Court, at Post Office Box 2546, Charleston, WV 25329, or deliver the form to the public counter at the Clerk's Office at the Robert C. Byrd Federal Courthouse, Suite 2400, 300 Virginia Street, East, Charleston, WV 25301.
- C. The Clerk's Office will send the attorney an e-mail message with the assigned login and password.

- D. After registering, attorneys must change their passwords once received. Logins, however, can only be changed by the Clerk's Office. If an attorney believes that the security of an existing password has been compromised and that a threat to CM/ECF exists, the attorney must change his or her password immediately. In addition, the attorney shall immediately notify the Clerk by telephone of the suspected compromise to the password.
- E. An attorney whose e-mail address, mailing address, telephone or fax number has changed from that of the original Attorney Registration Form shall timely file with the Clerk a Notice of a Change of Address in all cases affected by the attorney's move.

## **7. Filing**

### **7.1 General**

Electronic transmission of a document to CM/ECF in accordance with these Administrative Procedures, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the Local Rules of this Court and constitutes the entry of the document on the docket kept by the Clerk's Office under Rules 58 and 79 of the Federal Rules of Civil Procedure and Rules 49 and 55 of the Federal Rules of Criminal Procedure. E-mailing a document to the Clerk's

Office, unless specifically permitted by these Administrative Procedures, shall not constitute “filing” of the document.

## **7.2 Other - Civil**

- A. Parties may use e-mail ONLY for complaints, notices of removal and other initiating documents that require a filing fee. This procedure will remain in place until such time as the Southern District of West Virginia utilizes the case opening feature of CM/ECF and the credit card module.
- B. Attorneys electing this method must complete Form B, Credit Card Authorization, attached hereto.

## **8. Commencement of a Civil Action.**

A filing user may file a complaint, petition, notice of removal or other initiating document using one of the following procedures:

### **8.1 Traditional Method**

The Clerk’s Office will accept complaints, petitions, notices of removal and other initiating documents, with civil cover sheets, sent by United States mail or delivered in person to the Clerk’s Office before the close of business at 5:00 p.m. The filing fee must accompany a complaint sent through the United States mail or personally delivered to the Clerk’s Office. The Clerk’s Office will scan the complaint and cover sheet and upload them to CM/ECF.



## **8.2 E-Mail Method**

The Clerk's Office will accept complaints, petitions, notices of removal and other initiating documents, with civil cover sheets, sent by e-mail before the close of business at 5:00 p.m. Complaints received by the Clerk's Office by e-mail after 5:00 p.m. shall be considered filed the next business day.

- A. When using e-mail, the filing party must submit the complaint and cover sheet in PDF. Upon receipt of the e-mail, the Clerk's Office will charge the filing fee to the attorney's credit card number on file. New cases will not be filed until the filing fee has been paid.
- B. The e-mail address for submitting complaints by e-mail is:  
wvsd\_newcases@wvsd.uscourts.gov.
- C. Only new complaints, notices of removal and other documents associated with initiating the civil action may be sent to wvsd\_newcases@wvsd.uscourts.gov. The Clerk's Office will not accept for filing any other pleading or document submitted by e-mail.

## **9. Service**

### **9.1 Service of Process**

Rule 5(b) of the Federal Rules of Civil Procedure does not permit electronic service of process for purposes of obtaining personal jurisdiction, i.e., Rule 4 service. Therefore, service of process must be effected in the traditional manner.

## **9.2 Submission of the Civil Summons**

- A. The party requesting the summons must prepare the summons form, including the full style of the case from the complaint or petition on the summons.
- B. The requesting party will submit the prepared summons to the Clerk's Office for issuance in one of the following three ways: (1) in the traditional method via personal delivery to the public counter at the Clerk's Office; (2) in the traditional method via United States Mail; or (3) as a PDF by e-mail to [wvsd\\_newcases@wvsd.uscourts.gov](mailto:wvsd_newcases@wvsd.uscourts.gov).
- C. When submitting the summons by the traditional method, the filing party must include a stamped, self-addressed return envelope with the completed summons form. Once the summons has been submitted, the Clerk's Office staff will sign and seal the summons, and return the summons to the party by United States mail. Filers may make alternate arrangements to retrieve the summonses at the public counter in the Clerk's Office.
- D. When transmitting via e-mail, the completed summons in PDF must be sent to [wvsd\\_newcases@wvsd.uscourts.gov](mailto:wvsd_newcases@wvsd.uscourts.gov). The Clerk's Office staff will print, sign and seal the e-mailed summons, and return the summons to the party by United States mail. Filers who submit

summonses via e-mail may make alternate arrangements to retrieve the summonses at the Clerk's Office.

- E. A party may not electronically serve a summons, but instead must perfect service according to the Federal Rule of Civil Procedure 4.

### **9.3. Service of Electronically Filed Documents**

Whenever a document is filed electronically in accordance with these Administrative Procedures, CM/ECF shall generate and transmit a "Notice of Electronic Filing" to the filing attorney, any other attorney who is a filing user, and any person who has requested electronic notice in that case. A document filed electronically shall be deemed filed at the time and date stated on the Notice of Electronic Filing.

If the recipient is a filing user, CM/ECF's e-mailing of the Notice of Electronic Filing shall be the equivalent of the service of the pleading or other paper by first class mail, postage prepaid, and shall be deemed to satisfy the requirements of Fed. R. Civ. P. 5(b)(2)(D), Fed. R. Civ. P. 77(d), and Fed. R. Crim. P. 49(b).

### **9.4 Certificate of Service**

A certificate of service on all parties entitled to service or notice is still required when a party files a document electronically. The certificate shall be filed electronically and must state the manner in which service or notice was accomplished on each party so entitled. The certificate of service may

be filed as part of the main document without being referenced in the document description, or it may be made an attachment to the main document. Sample language for a certificate of service is attached to Administrative Procedures as Form C.

#### **9.5 Service of Electronically Filed Documents Upon Non-Filing Users**

A party who is not a filing user of CM/ECF is entitled to a paper copy of any electronically-filed pleading, document or order. The filing party must, therefore, provide the non-filing user with the pleading or document according to the Federal Rules of Civil or Criminal Procedure.

#### **9.6 Time to Respond Under Electronic Service**

In accordance with Rule 6(e) of the Federal Rules of Civil Procedure and Rule 45 of the Federal Rules of Criminal Procedure, service by electronic means is treated the same as service by mail for purposes of adding three days to the prescribed period to respond.

#### **9.7 Service of Sealed Filing**

**A sealed filing may or may not produce a Notice of Electronic Filing, depending upon the event code used. Service by the filer of any sealed documents by an alternate method is always required.**

## **10. Proposed Amended Pleadings and Documents**

### **10.1 Proposed Amended Pleadings**

When leave of Court is sought for the filing of an amended pleading or document, such as an amended complaint or a reply brief, the proposed amended document must be electronically filed as an attachment to the motion.

### **10.2 Proposed Jury Instructions, Verdict Forms, Special Interrogatories and Voir Dire Questions.**

Proposed jury instructions, verdict forms, special interrogatories and voir dire questions shall be electronically filed via CM/ECF. Upon request, the presiding judge may require the filing user to submit these documents in standard word processing software via e-mail.

## **11. Sealed Documents, Sealed Cases and Documents Presented *Ex Parte* or for *In Camera* Review**

### **11.1 General**

**The filing of documents under seal is discouraged. In addition to these procedures, please refer to Local Rule 26.4.**

### **11.2 Electronic Filing of Sealed Documents and Access**

Sealed documents and sealed cases will be filed in electronic format except as otherwise provided in these procedures. Motions to seal and any accompanying proposed documents for sealing shall be considered lodged

with the Court pending a ruling on the sealing request. Access to sealed documents and sealed cases is restricted to the Court and authorized staff, unless otherwise ordered by the court.

### **11.3 Paper Copy Requirement**

Paper copies of any Reference List under the E-Government Act of 2002, any motion to seal, any response or reply to the motion to seal, any *ex parte* motion to seal, any motion to seal - *in camera*, and any proposed sealed documents submitted as attachments shall also be submitted to the presiding judicial officer in an envelope prominently marked as containing "PROPOSED DOCUMENTS FOR SEALING."

### **11.4 Reference List under E-Government Act of 2002**

The Reference List required by the E-Government Act of 2002 containing the complete list of personal data identifiers is filed automatically under seal. Please refer to number 19, Public Access and Privacy Concerns, of these Administrative Procedures, for further instruction. A Notice of Electronic Filing will be generated to all case participants upon filing of the Reference List, and the docket entry is public even though the sealed document is not.

### **11.5 Motion to Seal - General**

If a party wishes to file a sealed motion, then the filing user should file a motion to seal under the Restricted Documents event category in CM/ECF, describe the motion, and if there are attachments, indicate and describe

those. The filing user should exercise caution when describing the sealed motion and any attachments as the docket entry is public, even though the motion to seal and any attachments are not until the Court rules on the merits of the motion to seal. A Notice of Electronic Filing will be generated to all case participants upon filing of the motion to seal containing the description the filing user entered into the event.

#### **11.6 Response or Reply to Motion to Seal**

If a filing user wishes to file a sealed response or reply to the motion to seal, s/he shall select the Motion to Seal under the Restricted Documents event category in CM/ECF and attach the response or reply to the motion to seal.

The docket entry is public, but the document will remain sealed until the Court rules on the merits of the motion to seal. A Notice of Electronic Filing will be generated to all case participants.

#### **11.7 *Ex Parte* Sealed Motion or Motion to Seal *In Camera***

If a party wishes to file an *ex parte* sealed motion in a criminal case or submit documents for *in camera* review in a civil or criminal case, then the filing user should select an *Ex Parte* Sealed Motion or a Motion to Seal - *In Camera* under the Restricted Events category in CM/ECF. The motion and any attachments will be sealed until the Court rules on the merits of the motion. A Notice of Electronic Filing will NOT be generated to the case participants, and there will be no public docket entry for this type of filing unless the

Court would direct otherwise. When required by law, the Court will provide public notice of the sealing request.

#### **11.8 Service of Sealed Documents**

In addition to the paper copy requirement for the presiding judicial officer outlined in procedure 11.3, filing users are reminded that they must serve sealed documents in the traditional manner on counsel if required by rule. CM/ECF will not electronically serve sealed material.

#### **11.9 Proposed Order to Seal**

- I. Any motion to seal submitted by a filing user should include at the end of the motion a request for the corresponding order to be sealed as well. It shall also indicate upon whom the Order shall be served. (e.g., Counsel requests that the Order corresponding to this motion be sealed and that copies be sent only to counsel for \_\_\_\_\_.
- If appropriate in criminal cases, the United States Marshal, the United States Probation Officer, etc., should be added for service. When a proposed order to seal accompanies the motion to seal as an attachment, the proposed order shall also indicate upon whom the order shall be served. (e.g., "IT IS FURTHER ORDERED that this Order be sealed. The Clerk is directed to serve this order upon \_\_\_\_\_. If appropriate in criminal cases, the United States Marshal, the United States Probation Officer, etc., should be



added for service.) The Clerk's Office will not be authorized to provide a copy of any sealed order to anyone unless authorized by the Court.

## **12. Discovery**

In accordance with the Local Rules, parties shall not file discovery. However, discovery materials to be used in support of any motion shall be filed electronically with the Court as an attachment to the motion.

## **13. Documents.**

### **13.1 Consents to Proceed before a United States Magistrate Judge**

Consents to Proceed before a United States Magistrate Judge should be e-mailed to [wvsd\\_consents@wvsd.uscourts.gov](mailto:wvsd_consents@wvsd.uscourts.gov), except for Consents in Social Security cases.

### **13.2 Submission of Motions and Responses as Separate Documents**

Motions and responses should always be filed as separate documents. For example, a Cross-Motion for Summary Judgment should never be combined with a Response to a Motion for Summary Judgment. It is critical that the Cross Motion be filed separately so that it will appear on the Court's Pending Motions Report and can be properly linked to any subsequent Responses, Replies, Notices and Orders.

### **13.3 Filing a Memorandum or Brief in Support of a Motion**

A memorandum or brief in support of a motion shall not be filed as an attachment to the motion. A separate electronic filing in CM/ECF shall be used for the filing of a memorandum or brief.

### **13.4 Attachments and Exhibits**

This section applies to exhibits to documents being filed in CM/ECF and not to trial exhibits. Trial exhibits may be filed electronically only to the extent practicable.

- A. Filing users must convert exhibits attached to documents to PDF unless the Court permits conventional filing.
- B. When filing exhibits in support of a motion, the exhibits must be attached to the motion, not to the memorandum in support of the motion. Filing users shall not attach as an exhibit any pleading or paper already on file with the Court in that case, but shall merely refer to that document by document number.

### **13.5 Large Documents**

Because large documents may not upload properly to CM/ECF or download within a reasonable amount of time for users with a 56K modem, documents over two megabytes will be rejected by CM/ECF. Filing users must submit PDF files that are larger than two megabytes by separating the large

document into smaller sections, each section being no larger than two megabytes.

When a document exceeds two megabytes, the main document shall consist of the first two megabytes of the document, with the remainder of the document being filed as attachments thereto and described on the attachment screen; e.g., "Continuation of Main Document, pages 51-100," "Continuation of Main Document, pages 101-150," and so on, with each attachment not to exceed two megabytes.

### **13.6 Color Documents**

For a scanned document to be filed electronically, the scanner must be configured for black and white at 200 dpi rather than color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the system.

### **13.7 Legibility**

The filing party is responsible for the legibility of the scanned document.

### **13.8 Document Retention**

Except for criminal case documents mentioned in section 1.5.3 above, the filing user shall retain all documents containing original signatures of anyone other than the filing user for a period of not less than 60 days after all dates for appellate review have expired.

### **13.9 Copies for Judge's Chambers**

When electronically filing documents, a paper courtesy copy to the presiding judge is not required except where any motion, memorandum, response or reply, together with documents in support thereof, is 50 pages or more in length or where any administrative record is 75 or more pages in length, or for sealed documents as set forth in procedure 11.3.

### **13.10 Petitions for Writs of Habeas Corpus ad Prosequendum or ad Testificandum**

Upon the filing of a petition for a writ of habeas corpus ad prosequendum or ad testificandum with an accompanying order and writ filed as two separate attachments to the petition, the filing user is required to immediately notify the judicial officer who will be signing the proposed order directing the Clerk to issue the writ.

## **14. Signatures**

### **14.1 Attorney Signatures**

The attorney's login and password shall constitute that attorney's signature on all electronically filed documents for purposes of the Local and Federal Rules of Civil and Criminal Procedure, including but not limited to Rule 11 of the Federal Rules of Civil Procedure. A pleading or other document requiring an attorney's signature may be scanned, or may be electronically

signed in the following manner: “s/(attorney name).” The correct format for an attorney signature is as follows:

**s/ Judith Attorney**

Judith Attorney Bar Number: 12345

Attorney for (Plaintiff/Defendant)

ABC Law Firm

123 South Street

Charleston, WV 25301

Telephone: (304) 123-4567

Fax: (304 ) 123-6789

E-mail: judith\_attorney@law.com

#### **14.2 Visiting Attorney/Local Attorney Signatures**

Visiting attorneys and their local counsel, as defined in the Local Rules for the Southern District of West Virginia, shall fully comply with these Administrative Procedures. Local counsel shall sign all documents, including the documents prepared by visiting attorneys regardless of whether the visiting attorney is a filing user with a court-issued login and password.

#### **14.3 Non-Attorney Signatures**

If the original document requires the signature of a non-attorney other than a *pro se* filer, the filing party or the Clerk’s Office shall scan the original document, then electronically file it in CM/ECF. Alternatively, the filing user may convert the document into a PDF text document and submit the document using “s/” for the signature(s) of the non-attorney(s). The filing user shall retain all documents containing original signatures of anyone other

than the filing user for a period of not less than 60 days after all dates for appellate review have expired.

#### **14.4 Multiple Signatures**

The following procedure applies when a stipulation or other document requires two or more signatures:

- A. The filing party or attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document and shall obtain the signatures of all parties on the document. For purposes of this rule, physical, facsimile, or electronic signatures are permitted.
- B. The filing party or attorney then may file the scanned document, or shall file the document electronically, indicating the signatories, e.g., “s/Judith Attorney,” “s/John Smith,” etc., in the format as follows:

**s/ Judith Attorney**

Judith Attorney Bar Number: 12345

Attorney for (Plaintiff/Defendant)

ABC Law Firm

123 South Street

Charleston, WV 25301

Telephone: (304) 123-4567

Fax: (304) 123-6789

E-mail: judith\_attorney@law.com

- C. Documents that are electronically filed and require original signatures other than that of the filing party must be maintained in paper form by the filing party for a period of not less than 60 days after all dates

for appellate review have expired. On the request of the Court, the filing party must provide original documents for review.

#### **14.5 Authenticity Disputes**

A non-filing signatory or party who disputes the authenticity of an electronically filed document with a non-attorney signature or the authenticity of the signature on that document must file an objection within 10 days of receiving the Notice of Electronic Filing, or, if a non-filing user, within 10 days of receiving the document. Should the authenticity of the document be questioned, the presiding judge may require the filing user to produce the original document.

#### **15. Fees Payable to the Clerk**

Any fee required for filing a pleading or paper in this Court is payable to the Clerk of the Court by check, money order, cash, or debit/credit card. The Clerk's Office will document the receipt of fees on the docket with an appropriate entry. The Court will not maintain electronic billing or debit accounts for lawyers or law firms.

#### **16. Orders**

##### **16.1 Entry of Orders - General**

The assigned judge or the Clerk's Office shall electronically file all signed orders. Upon filing, CM/ECF will send a "Notice of Electronic Filing" to all filing users in that case. The Clerk's Office will send a paper copy of the order to all parties not filing electronically. Any order signed electronically

has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order, and the order had been entered on the docket conventionally.

## **16.2 Proposed Orders**

Proposed orders shall be submitted as an attachment to the respective motion. In preparing the proposed order, the filing party will use the word PROPOSED in the description of the attachment to the document using one of the docket event categories prescribed by the Court, but shall not use the word PROPOSED in the title of the order itself. Upon request, the presiding judge may require the filing user to submit proposed orders in standard word processing software via e-mail.

## **17. Correcting Docket Entries**

- A. Once a document is submitted and becomes part of the case docket, corrections to the docket are made only by the Clerk's Office. CM/ECF will not permit the filing party to make changes to the document(s) or docket entry filed in error once the transaction has been accepted.
- B. The party electronically filing a document shall be responsible for selecting the correct docket entry title for the document by using one of the docket event categories prescribed by the Court. Electronic filing errors in a case may include the selection of the wrong docket entry title from the docket event categories, associating the wrong PDF file with a docket entry, or



entering the wrong case number and not discovering the error before the transaction is completed. **The filing party should not attempt to refile the document.**

- C. As soon as possible after an error is discovered, the filing party should contact the Clerk's Office with the case number and document number for which the correction is being requested. If appropriate, the Clerk's Office will make an appropriate corrective docket entry indicating what corrective action was taken. The filing party will be advised if the document needs to be refiled.
- D. Entries entered on the docket will not be deleted. The Clerk's Office may edit or modify an entry, or delete and/or reattach correct images.

## **18. Technical Failures**

### **18.1 Technical Failure of the CM/ECF System**

- A. The Clerk's Office shall deem the Southern District of West Virginia's CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 10:00 a.m. that day. Known system outages will be posted on the website, if possible. In such instances where filing is a matter of urgency or is necessary to meet a deadline, the filing user may submit the document to the Court in the traditional manner .

- B. A filing user whose filing is made untimely as the result of a technical failure of the Court's CM/ECF site may seek appropriate relief from the Court. However, filing users are cautioned that, in some circumstances, the Court lacks the authority to grant an extension of time to file (e.g., Rule 6(b) of the Federal Rules of Civil Procedure).

## **18.2 Technical Failures of the Filing User's System**

- A. Problems with the filing user's system, such as phone line problems, utility failures, problems with the filing user's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filing user who cannot file a document electronically because of a problem on the filing user's system must first contact the Clerk's Office for permission to file the document traditionally or by another alternative means.
- B. If the filer is unable to file electronically because of technical failures, the filer must serve the opposing parties in the traditional manner.

## **19. Public Access and Privacy Concerns**

### **19.1 Social Security Case Information**

The public may retrieve information from CM/ECF over the internet by obtaining a PACER login and password. In accordance with Judicial Conference policy, the docket sheet for a Social Security case is available for

public view over the internet, while documents in a Social Security case are available for retrieval only to counsel of record, case participants, and court users and at the public terminal in the Clerk's Office.

## **19.2 Privacy - E-Government Act of 2002**

In compliance with the E-Government Act of 2002, sensitive information should not be included in any document filed with the Court unless such inclusion is necessary and relevant to the case. Remember that any personal information not otherwise protected will be made available over the internet via PACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the document, whether it is filed traditionally or electronically:

- A. **Social Security Numbers.** If an individual's Social Security number must be included in a document, only the last four digits of that number should be used.
- B. **Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- C. **Dates of Birth.** If an individual's date of birth must be included in a document, only the year should be used.
- D. **Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

- E. **Home Addresses.** If a home address must be included on a document, only the city and state shall be identified.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may:

- A. File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifiers. The reference list must be filed under seal and may be amended as of right. It shall be retained by the court as part of the record; OR
- B. File an unredacted version of the document under seal with the following heading, "SEALED DOCUMENT PURSUANT TO E-GOVERNMENT ACT OF 2002." This document shall be retained by the Court as part of the record. Filers will still be required to file a redacted version for the electronic file under the appropriate event code to serve as the official court record.

You are advised to exercise caution when filing documents that contain the following:

- A. Personal identification numbers, such as driver's license numbers;
- B. Medical records, treatment and diagnosis;

- C. Employment history;
- D. Individual financial information;
- E. Proprietary or trade secret information;
- F. Information regarding an individual's cooperation with the government;
- G. Information regarding the victim of any criminal activity;
- H. National security information;
- I. Sensitive security information as described in 49 U.S.C. §114(s).

Counsel is strongly urged to share this information with all clients so that an informed decision about the inclusion of certain materials may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that the redaction of personal identifiers is done. The Clerk will not review each document for redaction.

### **19.3 Privacy - Judicial Conference Policy**

In addition to the privacy items listed in section 19.2 above, the Judicial Conference policy requires that the Court not provide public access to the following documents: unexecuted warrants of any kind; pretrial bail or presentence investigation reports; statements of reasons in the judgment of conviction; juvenile records; documents containing identifying information about jurors or potential jurors in criminal cases; financial affidavits filed in seeking representation pursuant to the Criminal Justice Act (CJA) and other

CJA-related forms; *ex parte* requests for expert or investigative services at Court expense; and sealed documents.

## **20. Public Access to the CM/ECF Docket**

### **20.1 Public Access at the Court**

Electronic access to the electronic docket and documents, except certain filings (restricted access or sealed access documents), filed in CM/ECF is available for viewing at no charge at the public terminal in the Clerk's Office during regular business hours. A copy fee for an electronic reproduction is required in accordance with 28 U.S.C. § 1920.

### **20.2 Internet Access**

Remote electronic access to CM/ECF for viewing purposes is limited to subscribers to Public Access to Court Electronic Records (PACER). The Judicial Conference of the United States has ruled that a user fee will be charged for remotely accessing certain detailed case information. Application forms and information on PACER can be found on the Court's website at [www.wvsc.uscourts.gov](http://www.wvsc.uscourts.gov).

### **20.3 Conventional and Certified Copies**

Conventional copies and certified copies of electronically filed documents may be purchased at the Clerk's Office. The fee for copying and certifying will be in accordance with 28 U.S.C. § 1914.